

AMENDED IN ASSEMBLY AUGUST 22, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 30, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 25, 2005

SENATE BILL

No. 668

Introduced by Senator Kuehl

February 22, 2005

An act to amend Sections 8899.12, 8899.14, 65302, and 65302.5 of the Government Code, ~~and to amend Section 10295.5 of, and to repeal and add Section 20676 of, the Public Contract Code, and to amend Sections 603.1, 607, 611, 661, 2003, 2207, 2692, 2705.5, 2714, 2715, 2716, 2728, 2761, 2763, 2770, 2773.1, 2774, 2775, 2796.5, and 30404 of, to add Section 2772.7 to, and to repeal and add Section 2773.2 of, the Public Resources Code, relating to mining.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 668, as amended, Kuehl. Mining.

(1) Existing law establishes the Division of Mines and Geology in the Department of Conservation.

This bill would rename the division as the California Geological Survey in the Department of Conservation.

(2) Existing law requires the Department of Conservation, for purposes of complying with certain provisions regarding public contracts, to publish or otherwise make available, upon request, to the Department of General Services or a state agency, a list identifying certain surface mining operations. Existing law prohibits a state

agency from acquiring or utilizing mined material unless the material is produced from a mining operation identified on that list.

This bill would also prohibit a state agency from contracting with a person utilizing these materials, as specified.

(3) Existing law prohibits an operator of surface mines in this state, whose operations are not identified in that list, from selling California mined material to a local agency. *Existing law, the Surface Mining and Reclamation Act of 1975, governs surface mining operations and reclamation of mined lands.*

This bill would instead prohibit a contractor or a mining operator from selling any minerals to a local agency *unless the operation is not subject to the Surface Mining and Reclamation Act of 1975, or unless the contractor or mining operator certifies, under penalty of perjury, that the minerals are from a mining operation identified in the list.* Because this certification would be under penalty of perjury, the bill would impose a state-mandated local program by creating a new crime.

(4) Existing law requires the owner, lessor, lessee, agent, manager, or other person in charge of a mining operation to annually submit certain information in a report to the Director of Conservation, and to submit specified reporting fees to the State Mining and Geology Board. Existing law defines the term “mining operation” for purposes of these requirements, as a surface mine.

This bill would revise the definition of “mining operation” for purposes of these requirements to include any mining operation, including, but not limited to, a mining operation that is classified as a surface mine, and would impose those requirements upon the owner or operator of a mining operation.

The bill would require the owner or operator of a mining operation to allow access to the property to any governmental agency or the agent of any company providing financial assurances in connection with the reclamation plan.

(5) ~~Existing law, the Surface Mining and Reclamation Act of 1975, governs surface mining operations and reclamation of mined lands.~~ ~~The act~~ *The Surface Mining and Reclamation Act of 1975* prohibits a person from conducting surface mining operations without obtaining a permit from the lead agency for those operations, and submitting and receiving approval for a reclamation plan and financial assurances from the lead agency. The act provides that it does not limit, among other things, the power of any city or county to regulate the use of

buildings, structures, and land as between industry, business, residences, open space and other purposes.

The bill would provide that the exemption of the act upon a city or county's power does not apply to an area classified by the State Geologist or designated by the board as an area that contains mineral deposits and is an area of regional or statewide significance, as specified.

~~(6) The act requires the State Geologist to classify certain areas identified by the Office of Planning and Research as areas containing little or no mineral deposits, or significant mineral deposits, or requiring further evaluation:~~

~~This bill would instead require the State Geologist to classify those areas that do not require further evaluation as an area that contains mineral deposits and that is not of regional or statewide significance; or an area that contains mineral deposits and that is either of regional or statewide significance.~~

~~(7) Existing law requires a lead agency, before permitting a use that would threaten the potential to extract minerals in specified areas, to prepare a specified statement if the area is designated by the State Mining and Geology Board as an area of regional or statewide significance, and the lead agency either has designated that area in its general plan as having important minerals or otherwise has not yet acted, as specified.~~

~~This bill would additionally prohibit a city or county, in any area classified by the State Geologist or designated by the board as an area that contains mineral deposits and is an area of regional or statewide significance, in either its general plan, or in its resource management plan, from allowing the specific area to be used for, or permitting a use, that is inconsistent with the exploitation or development of that area for mineral excavation and production, until commercial production of the area so designated is completed. The bill would allow the city or county to permit part of the area to be utilized for a use not involving mineral exploitation or development, under specified circumstances.~~

~~(8)~~

~~(6) Existing law authorizes the director, with the consultation of appropriate state and local agencies, until January 1, 2007, to remediate or complete reclamation of abandoned mined lands that meet certain requirements. Existing law provides that the operator, landowner, and the person or persons who allowed or caused any~~

pollution or nuisance, are liable for any remediation or reclamation work accomplished, or other necessary remedial action taken by any governmental agency and provides that the amount of the costs are recoverable in a civil action by, and paid to, the governmental agency and the director, to the extent of the director's contribution to the costs of the remediation, reclamation, cleanup, and abatement or other corrective action.

This bill would delete the repeal of those provisions, thereby continuing indefinitely those remediation and cost recovery provisions.

(9)

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8899.12 of the Government Code is
2 amended to read:
3 8899.12. (a) Participants in the EREC shall be selected by
4 the Seismic Safety Commission in collaboration with the
5 California Council on Science and Technology and the California
6 Geological Survey in the Department of Conservation. EREC
7 participants shall include, but not be limited to, representatives
8 from all of the following:
9 (1) Research universities.
10 (2) Major professional organizations.
11 (3) State agencies.
12 (4) Federal agencies.
13 (5) Private industry.
14 (b) The organization and management of the EREC shall be
15 the responsibility of the Seismic Safety Commission, in
16 collaboration with the California Council on Science and
17 Technology and the California Geological Survey.

1 SEC. 2. Section 8899.14 of the Government Code is amended
2 to read:

3 8899.14. The Seismic Safety Commission, in collaboration
4 with the California Council on Science and Technology, the
5 California Geological Survey, and the Office of Competitive
6 Technology, shall provide structure for the EREC by submitting
7 a proposed five-year plan for review and consideration. Included
8 with this submission shall be an appropriate schedule and
9 structure for reviewing and critiquing existing and emerging
10 technologies for earthquake research. The EREC shall review,
11 critique, and revise the proposed plan submitted by the Seismic
12 Safety Commission, as appropriate to the needs of California.
13 The EREC shall present its findings to the Seismic Safety
14 Commission.

15 SEC. 3. Section 65302 of the Government Code is amended
16 to read:

17 65302. The general plan shall consist of a statement of
18 development policies and shall include a diagram or diagrams
19 and text setting forth objectives, principles, standards, and plan
20 proposals. The plan shall include the following elements:

21 (a) A land use element that designates the proposed general
22 distribution and general location and extent of the uses of the
23 land for housing, business, industry, open space, including
24 agriculture, natural resources, recreation, and enjoyment of
25 scenic beauty, education, public buildings and grounds, solid and
26 liquid waste disposal facilities, and other categories of public and
27 private uses of land. The land use element shall include a
28 statement of the standards of population density and building
29 intensity recommended for the various districts and other
30 territory covered by the plan. The land use element shall identify
31 areas covered by the plan which are subject to flooding and shall
32 be reviewed annually with respect to those areas. The land use
33 element shall also do both of the following:

34 (1) Designate in a land use category that provides for timber
35 production those parcels of real property zoned for timberland
36 production pursuant to the California Timberland Productivity
37 Act of 1982, Chapter 6.7 (commencing with Section 51100) of
38 Part 1 of Division 1 of Title 5.

39 (2) Consider the impact of new growth on military readiness
40 activities carried out on military bases, installations, and

1 operating and training areas, when proposing zoning ordinances
2 or designating land uses covered by the general plan for land, or
3 other territory adjacent to military facilities, or underlying
4 designated military aviation routes and airspace.

5 (A) In determining the impact of new growth on military
6 readiness activities, information provided by military facilities
7 shall be considered. Cities and counties shall address military
8 impacts based on information from the military and other
9 sources.

10 (B) The following definitions govern this paragraph:

11 (i) “Military readiness activities” mean all of the following:

12 (I) Training, support, and operations that prepare the men and
13 women of the military for combat.

14 (II) Operation, maintenance, and security of any military
15 installation.

16 (III) Testing of military equipment, vehicles, weapons, and
17 sensors for proper operation or suitability for combat use.

18 (ii) “Military installation” means a base, camp, post, station,
19 yard, center, homeport facility for any ship, or other activity
20 under the jurisdiction of the United States Department of Defense
21 as defined in paragraph (1) of subsection (e) of Section 2687 of
22 Title 10 of the United States Code.

23 (b) A circulation element consisting of the general location
24 and extent of existing and proposed major thoroughfares,
25 transportation routes, terminals, any military airports and ports,
26 and other local public utilities and facilities, all correlated with
27 the land use element of the plan.

28 (c) A housing element as provided in Article 10.6
29 (commencing with Section 65580).

30 (d) A conservation element for the conservation, development,
31 and utilization of natural resources including water and its
32 hydraulic force, forests, soils, rivers and other waters, harbors,
33 fisheries, wildlife, minerals, and other natural resources. The
34 conservation element shall consider the effect of development
35 within the jurisdiction, as described in the land use element, on
36 natural resources located on public lands, including military
37 installations. That portion of the conservation element including
38 waters shall be developed in coordination with any countywide
39 water agency and with all district and city agencies that have
40 developed, served, controlled or conserved water for any purpose

1 for the county or city for which the plan is prepared.
2 Coordination shall include the discussion and evaluation of any
3 water supply and demand information described in Section
4 65352.5, if that information has been submitted by the water
5 agency to the city or county. The conservation element may also
6 cover the following:

- 7 (1) The reclamation of land and waters.
- 8 (2) Prevention and control of the pollution of streams and
9 other waters.
- 10 (3) Regulation of the use of land in stream channels and other
11 areas required for the accomplishment of the conservation plan.
- 12 (4) Prevention, control, and correction of the erosion of soils,
13 beaches, and shores.
- 14 (5) Protection of watersheds.
- 15 (6) The location, quantity and quality of the rock, sand and
16 gravel resources.
- 17 (7) Flood control.

18 ~~The conservation element shall be prepared and adopted no~~
19 ~~later than December 31, 1973.~~

20 (e) An open-space element as provided in Article 10.5
21 (commencing with Section 65560).

22 (f) A noise element which shall identify and appraise noise
23 problems in the community. The noise element shall recognize
24 the guidelines established by the Office of Noise Control in the
25 State Department of Health Services and shall analyze and
26 quantify, to the extent practicable, as determined by the
27 legislative body, current and projected noise levels for all of the
28 following sources:

- 29 (1) Highways and freeways.
- 30 (2) Primary arterials and major local streets.
- 31 (3) Passenger and freight on-line railroad operations and
32 ground rapid transit systems.
- 33 (4) Commercial, general aviation, heliport, helistop, and
34 military airport operations, aircraft overflights, jet engine test
35 stands, and all other ground facilities and maintenance functions
36 related to airport operation.
- 37 (5) Local industrial plants, including, but not limited to,
38 railroad classification yards.

1 (6) Other ground stationary noise sources, including, but not
2 limited to, military installations, identified by local agencies as
3 contributing to the community noise environment.

4 Noise contours shall be shown for all of these sources and
5 stated in terms of community noise equivalent level (CNEL) or
6 day-night average level (L_{dn}). The noise contours shall be
7 prepared on the basis of noise monitoring or following generally
8 accepted noise modeling techniques for the various sources
9 identified in paragraphs (1) to (6), inclusive.

10 The noise contours shall be used as a guide for establishing a
11 pattern of land uses in the land use element that minimizes the
12 exposure of community residents to excessive noise.

13 The noise element shall include implementation measures and
14 possible solutions that address existing and foreseeable noise
15 problems, if any. The adopted noise element shall serve as a
16 guideline for compliance with the state's noise insulation
17 standards.

18 (g) A safety element for the protection of the community from
19 any unreasonable risks associated with the effects of seismically
20 induced surface rupture, ground shaking, ground failure, tsunami,
21 seiche, and dam failure; slope instability leading to mudslides
22 and landslides; subsidence, liquefaction and other seismic
23 hazards identified pursuant to Chapter 7.8 (commencing with
24 Section 2690) of Division 2 of the Public Resources Code, and
25 other geologic hazards known to the legislative body; flooding;
26 and wild land and urban fires. The safety element shall include
27 mapping of known seismic and other geologic hazards. It shall
28 also address evacuation routes, military installations, peakload
29 water supply requirements, and minimum road widths and
30 clearances around structures, as those items relate to identified
31 fire and geologic hazards.

32 (1) Prior to the periodic review of its general plan and prior to
33 preparing or revising its safety element, each city and county
34 shall consult the California Geological Survey of the Department
35 of Conservation and the Office of Emergency Services for the
36 purpose of including information known by and available to the
37 department and the office required by this subdivision.

38 (2) To the extent that a county's safety element is sufficiently
39 detailed and contains appropriate policies and programs for
40 adoption by a city, a city may adopt that portion of the county's

1 safety element that pertains to the city's planning area in
2 satisfaction of the requirement imposed by this subdivision.

3 SEC. 4. Section 65302.5 of the Government Code is amended
4 to read:

5 65302.5. (a) At least 45 days prior to adoption or amendment
6 of the safety element, each county and city shall submit to the
7 California Geological Survey of the Department of Conservation
8 one copy of a draft of the safety element or amendment and any
9 technical studies used for developing the safety element. The
10 division may review drafts submitted to it to determine whether
11 they incorporate known seismic and other geologic hazard
12 information, and report its findings to the planning agency within
13 30 days of receipt of the draft of the safety element or
14 amendment pursuant to this subdivision. The legislative body
15 shall consider the division's findings prior to final adoption of
16 the safety element or amendment unless the division's findings
17 are not available within the above prescribed time limits or
18 unless the division has indicated to the city or county that the
19 division will not review the safety element. If the division's
20 findings are not available within those prescribed time limits, the
21 legislative body may take the division's findings into
22 consideration at the time it considers future amendments to the
23 safety element. Each county and city shall provide the division
24 with a copy of its adopted safety element or amendments. The
25 division may review adopted safety elements or amendments and
26 report its findings. All findings made by the division shall be
27 advisory to the planning agency and legislative body.

28 (1) The draft element of or draft amendment to the safety
29 element of a county or a city's general plan shall be submitted to
30 the State Board of Forestry and Fire Protection and to every local
31 agency that provides fire protection to territory in the city or
32 county at least 90 days prior to either of the following:

33 (A) The adoption or amendment to the safety element of its
34 general plan for each county that contains state responsibility
35 areas.

36 (B) The adoption or amendment to the safety element of its
37 general plan for each city or county that contains a very high fire
38 hazard severity zone as defined pursuant to subdivision (b) of
39 Section 51177.

(2) A county that contains state responsibility areas and a city or county that contains a very high fire hazard severity zone as defined pursuant to subdivision (b) of Section 51177; shall submit for review the safety element of its general plan to the State Board of Forestry and Fire Protection and to every local agency that provides fire protection to territory in the city or county in accordance with the following dates, as specified, unless the local government submitted the element within five years prior to that date:

(A) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 2010.

(B) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2011.

(C) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2012.

(D) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2013.

(E) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2014.

(F) All other local governments: December 31, 2015.

(3) The State Board of Forestry and Fire Protection shall, and a local agency may, review the draft or an existing safety element and report its written recommendations to the planning agency within 60 days of its receipt of the draft or existing safety element. The State Board of Forestry and Fire Protection and local agency shall review the draft or existing safety element and may offer written recommendations for changes to the draft or existing safety element regarding both of the following:

(A) Uses of land and policies in state responsibility areas and very high fire hazard severity zones that will protect life, property, and natural resources from unreasonable risks associated with wildland fires.

(B) Methods and strategies for wildland fire risk reduction and prevention within state responsibility areas and very high hazard severity zones.

(b) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county or the city council of a city shall consider the recommendations made by the State Board of Forestry and Fire Protection and any local agency that provides fire protection to territory in the city or county. If the board of supervisors or city council determines not to accept all or some of the recommendations, if any, made by the State Board of Forestry and Fire Protection or local agency, the board of supervisors or city council shall communicate in writing to the State Board of Forestry and Fire Protection or to the local agency, its reasons for not accepting the recommendations.

(c) If the State Board of Forestry and Fire Protection or local agency's recommendations are not available within the time limits required by this section, the board of supervisors or city council may act without those recommendations. The board of supervisors or city council shall take the recommendations into consideration at the next time it considers amendments pursuant to paragraph (1) of subdivision (a).

SEC. 5. Section 10295.5 of the Public Contract Code is amended to read:

10295.5. (a) Notwithstanding any other provision of law, no state agency shall acquire or utilize sand, gravel, aggregates, or other minerals produced from a surface mining operation subject to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code), ~~or contract with a person who is not a surface mining operator, but who is supplying or utilizing those mined materials, to perform work for or supply materials to a state agency,~~ unless the operation is identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code as having either of the following:

(1) An approved reclamation plan and financial assurances covering the affected surface mining operation.

(2) An appeal pending before the State Mining and Geology Board pursuant to subdivision (e) of Section 2770 of the Public Resources Code with respect to the reclamation plan or financial assurances.

(b) Notwithstanding any other provision of law, no state agency shall contract with a person who is not a surface mining operator, but who is supplying or utilizing sand, gravel,

1 *aggregates, or other minerals, to perform work for, or supply*
2 *materials to, a state agency, unless the operation is identified in*
3 *the list published pursuant to subdivision (b) of Section 2717 of*
4 *the Public Resources Code as having either of the following:*

5 (1) *An approved reclamation plan and financial assurances*
6 *covering the affected surface mining operation.*

7 (2) *An appeal pending before the State Mining and Geology*
8 *Board pursuant to subdivision (e) of Section 2770 of the Public*
9 *Resources Code with respect to the reclamation plan or financial*
10 *assurances.*

11 ~~(b)–~~

12 (c) For purposes of this section, “minerals” means any
13 naturally occurring chemical element or compound, or groups of
14 elements and compounds, formed from inorganic processes and
15 organic substances, including, but not limited to, coal, peat, and
16 bituminous rock, but excluding geothermal resources, natural
17 gas, and petroleum.

18 ~~(e)–~~

19 (d) The requirements of this section shall apply to mining
20 operations on federal lands or Indian lands that are subject to the
21 Surface Mining and Reclamation Act of 1975 (Chapter 9
22 (commencing with Section 2710) of Division 2 of the Public
23 Resources Code) pursuant to a memorandum of understanding
24 between the Department of Conservation and the federal agency
25 having jurisdiction over the lands.

26 SEC. 6. Section 20676 of the Public Contract Code is
27 repealed.

28 SEC. 7. Section 20676 is added to the Public Contract Code,
29 to read:

30 20676. A contractor or a mining operator shall not sell any
31 *sand, gravel, or other minerals*, as defined in subdivision (c) of
32 Section 10295.5, to a local agency, *unless the operation is not*
33 *subject to the Surface Mining and Reclamation Act of 1975*
34 *(Chapter 9 (commencing with Section 2710) of Division 2 of the*
35 *Public Resources Code), or unless the contractor or mining*
36 *operator certifies, under penalty of perjury, that the minerals are*
37 *from a mining operation identified in the list published pursuant*
38 *to subdivision (b) of Section 2717 of the Public Resources Code.*

39 SEC. 8. Section 603.1 of the Public Resources Code is
40 amended to read:

1 603.1. The director is hereby vested with all the duties,
2 powers, purposes, responsibilities, and jurisdiction of the State
3 Geologist as Chief of the California Geological Survey of the
4 department. The director may appoint an assistant or deputy
5 director to exercise any powers and duties in the administration
6 of the California Geological Survey that the director may
7 delegate to that person.

8 SEC. 9. Section 607 of the Public Resources Code is
9 amended to read:

10 607. The work of the department shall be divided into at least
11 the following divisions:

- 12 (a) California Geological Survey.
- 13 (b) Division of Oil, Gas, and Geothermal Resources.
- 14 (c) Division of Land ~~Conservation~~ *Resource Protection*.
- 15 (d) Division of Recycling.
- 16 (e) *Office of Mine Reclamation*.

17 SEC. 10. Section 611 of the Public Resources Code is
18 amended to read:

19 611. Notwithstanding any other provision of this code or of
20 law and except as provided in the State Building Standards Law,
21 Part 2.5 (commencing with Section 18901) of Division 13 of the
22 Health and Safety Code, on and after January 1, 1980, the
23 department, director, the State Geologist, the State Mining and
24 Geology Board, or the California Geological Survey shall not
25 adopt nor publish a building standard as defined in Section 18909
26 of the Health and Safety Code unless the provisions of Sections
27 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the
28 Health and Safety Code are expressly excepted in the statute
29 under which the authority to adopt rules, regulations, or orders is
30 delegated. Any building standard adopted in violation of this
31 section shall have no force or effect. Any building standard
32 adopted before January 1, 1980, pursuant to this code and not
33 expressly excepted by statute from such provisions of the State
34 Building Standards Law shall remain in effect only until January
35 1, 1985, or until adopted, amended, or superseded by provisions
36 published in the State Building Standards Code, whichever
37 occurs sooner.

38 SEC. 11. Section 661 of the Public Resources Code is
39 amended to read:

661. As used in this article, “board” means the State Mining and Geology Board and “division” means the California Geological Survey of the department.

SEC. 12. Section 2003 of the Public Resources Code is amended to read:

2003. “Division,” in reference to the government of this state, means the California Geological Survey in the Department of Conservation.

Wherever any reference is made to the Division of Mines and Geology in the Department of Conservation pertaining to a duty, power, purpose, responsibility, or jurisdiction ~~that is transferred to the California Geological Survey by this section of that division~~, it shall be deemed to be a reference to, and to mean *a duty, power, purpose, responsibility, or jurisdiction of*, the California Geological Survey of the Department of Conservation.

SEC. 13. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner or the operator of a mining operation within the state shall forward to the director annually, not later than a date established by the director, upon forms approved by the board from time to time, a report, ~~subject to subdivision (i)~~, that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation’s reclamation plan.

(6) The mining operation’s status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

1 (8) Proof of annual inspection by the lead agency.

2 (9) Proof of financial assurances.

3 (10) Ownership of the property, including government
4 agencies, if applicable, by the assessor's parcel number, and total
5 assessed value of the mining operation.

6 (11) The approximate permitted size of the mining operation
7 subject to Chapter 9 (commencing with Section 2710), in acres.

8 (12) The approximate total acreage of land newly disturbed by
9 the mining operation during the previous calendar year.

10 (13) The approximate total of disturbed acreage reclaimed
11 during the previous calendar year.

12 (14) The approximate total unreclaimed disturbed acreage
13 remaining as of the end of the calendar year.

14 (15) The total production for each mineral commodity
15 produced during the previous year.

16 (16) A copy of any approved reclamation plan and any
17 amendments or conditions of approval to any existing
18 reclamation plan approved by the lead agency.

19 (b) (1) Every year, not later than the date established by the
20 director, the person submitting the report pursuant to subdivision
21 (a) shall forward to the lead agency, upon forms furnished by the
22 board, a report that provides all of the information specified in
23 paragraphs (1) to (16), inclusive, of subdivision (a).

24 (2) The owner or operator of a mining ~~operator~~ operation shall
25 allow access to the property to any governmental agency or the
26 agent of any company providing financial assurances in
27 connection with the reclamation plan, in order that the
28 reclamation can be carried out by the entity or company, in
29 accordance with the provisions of the reclamation plan.

30 (c) Subsequent reports shall include only changes in the
31 information submitted for the items described in subdivision (a),
32 except that, instead of the approved reclamation plan, the reports
33 shall include any reclamation plan amendments approved during
34 the previous year. The reports shall state whether review of a
35 reclamation plan, financial assurances, or an interim management
36 plan is pending under subdivision (b), (c), (d), or (h) of Section
37 2770, or whether an appeal before the board or lead agency
38 governing body is pending under subdivision (e) or (h) of Section
39 2770. The director shall notify the person submitting the report
40 and the owner's designated agent in writing that the report and

1 the fee required pursuant to subdivision (d) have been received,
2 specify the mining operation's mine number if one has not been
3 issued by the Bureau of Mines, and notify the person and agent
4 of any deficiencies in the report within 90 days of receipt. That
5 person or agent shall have 30 days from receipt of the
6 notification to correct the noted deficiencies and forward the
7 revised reports to the director and the lead agency. Any person
8 who fails to comply with this section, or knowingly provides
9 incorrect or false information in reports required by this section,
10 may be subject to an administrative penalty as provided in
11 subdivision (c) of Section 2774.1.

12 (d) (1) The board shall impose, by regulation, pursuant to
13 paragraph (2), an annual reporting fee on, and method for
14 collecting annual fees from, each active or idle mining operation.
15 The maximum fee for any single mining operation may not
16 exceed four thousand dollars (\$4,000) annually and may not be
17 less than one hundred dollars (\$100) annually, as adjusted for the
18 cost of living as measured by the California Consumer Price
19 Index for all urban consumers, calendar year averages, using the
20 percentage change in the previous year, beginning with the
21 2005–06 fiscal year and annually thereafter.

22 (2) (A) The board shall adopt, by regulation, a schedule of
23 fees authorized under paragraph (1) to cover the department's
24 cost in carrying out this section and Chapter 9 (commencing with
25 Section 2710), as reflected in the Governor's Budget, and may
26 adopt those regulations as emergency regulations. In establishing
27 the schedule of fees to be paid by each active and idle mining
28 operation, the fees shall be calculated on an equitable basis
29 reflecting the size and type of operation. The board shall also
30 consider the total assessed value of the mining operation, the
31 acreage disturbed by mining activities, and the acreage subject to
32 the reclamation plan.

33 (B) Regulations adopted pursuant to this subdivision shall be
34 adopted by the board in accordance with Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2 of the Government Code. The adoption of any emergency
37 regulations pursuant to this subdivision shall be considered
38 necessary to address an emergency and shall be considered by
39 the Office of Administrative Law to be necessary for the

1 immediate preservation of the public peace, health, safety, and
2 general welfare.

3 (3) The total revenue generated by the reporting fees may not
4 exceed, and may be less than, the amount of three million five
5 hundred thousand dollars (\$3,500,000), as adjusted for the cost of
6 living as measured by the California Consumer Price Index for
7 all urban consumers, calendar year averages, using the
8 percentage change in the previous year, beginning with the
9 2005–06 fiscal year and annually thereafter. If the director
10 determines that the revenue collected during the preceding fiscal
11 year was greater or less than the cost to operate the program, the
12 board shall adjust the fees to compensate for the overcollection
13 or undercollection of revenues.

14 (4) (A) The reporting fees established pursuant to this
15 subdivision shall be deposited in the Mine Reclamation Account,
16 which is hereby created. Any fees, penalties, interest, fines, or
17 charges collected by the director or board pursuant to this chapter
18 or Chapter 9 (commencing with Section 2710) shall be deposited
19 in the Mine Reclamation Account. The money in the account
20 shall be available to the department and board, upon
21 appropriation by the Legislature, for the purpose of carrying out
22 this section and complying with Chapter 9 (commencing with
23 Section 2710), which includes, but is not limited to, classification
24 and designation of areas with mineral resources of statewide or
25 regional significance, reclamation plan and financial assurance
26 review, mine inspection, and enforcement.

27 (B) (i) In addition to reporting fees, the board shall collect
28 five dollars (\$5) per ounce of gold and ten cents (\$0.10) per
29 ounce of silver mined within the state and shall deposit the fees
30 collected in the Abandoned Mine Reclamation and Minerals
31 Fund Subaccount, which is hereby created in the Mine
32 Reclamation Account. The department may expend the moneys
33 in the subaccount, upon appropriation by the Legislature, for only
34 the purposes of ~~Sections 2796.5 and 2797~~ *Section 2796.5 and as*
35 *authorized herein for the remediation of abandoned mines.*

36 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees
37 collected pursuant to clause (i) may also be used to remediate
38 features of historic abandoned mines and lands that they impact.
39 For the purposes of this section, historic abandoned mines are
40 mines for which operations have been conducted before January

1 1, 1976, and include, but are not limited to, historic gold and
2 silver mines.

3 (5) In case of late payment of the reporting fee, a penalty of
4 not less than one hundred dollars (\$100) or 10 percent of the
5 amount due, whichever is greater, plus interest at the rate of 1 ½
6 percent per month, computed from the delinquent date of the
7 assessment until and including the date of payment, shall be
8 assessed. New mining operations that have not submitted a report
9 shall submit a report prior to commencement of operations. The
10 new operation shall submit its fee according to the reasonable fee
11 schedule adopted by the board, and the month that the report is
12 received shall become that operation's anniversary month.

13 (e) The lead agency, or the board when acting as the lead
14 agency, may impose a fee upon each mining operation to cover
15 the reasonable costs incurred in implementing this chapter and
16 Chapter 9 (commencing with Section 2710).

17 (f) For purposes of this section, "mining operation" means a
18 mining operation of any kind or character whatever in this state,
19 including, but not limited to, a mining operation that is classified
20 as a "surface mining operation" as defined in Section 2735,
21 unless excepted by Section 2714. For the purposes of fee
22 collections only, "mining operation" may include one or more
23 mines operated by a single operator or mining company on one
24 or more sites, if the total annual combined mineral production for
25 all sites is less than 100 troy ounces for precious metals, if
26 precious metals are the primary mineral commodity produced, or
27 less than 100,000 short tons if the primary mineral commodity
28 produced is not precious metals.

29 (g) Any information in reports submitted pursuant to
30 subdivision (a) that includes or otherwise indicates the total
31 mineral production, reserves, or rate of depletion of any mining
32 operation may not be disclosed to any member of the public, as
33 defined in subdivision (b) of Section 6252 of the Government
34 Code. Other portions of the reports are public records unless
35 excepted by statute. Statistical bulletins based on these reports
36 and published under Section 2205 shall be compiled to show, for
37 the state as a whole and separately for each lead agency, the total
38 of each mineral produced therein. In order not to disclose the
39 production, reserves, or rate of depletion from any identifiable
40 mining operation, no production figure shall be published or

1 otherwise disclosed unless that figure is the aggregated
2 production of not less than three mining operations. If the
3 production figure for any lead agency would disclose the
4 production, reserves, or rate of depletion of less than three
5 mining operations or otherwise permit the reasonable inference
6 of the production, reserves, or rate of depletion of any
7 identifiable mining operation, that figure shall be combined with
8 the same figure of not less than two other lead agencies without
9 regard to the location of the lead agencies. The bulletin shall be
10 published annually by June 30 or as soon thereafter as
11 practicable.

12 (h) The approval of a form by the board pursuant to this
13 section is not the adoption of a regulation for purposes of Chapter
14 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
15 Title 2 of the Government Code and is not subject to that chapter.

16 SEC. 14. Section 2692 of the Public Resources Code is
17 amended to read:

18 2692. (a) It is the intent of the Legislature to provide for a
19 statewide seismic hazard mapping and technical advisory
20 program to assist cities and counties in fulfilling their
21 responsibilities for protecting the public health and safety from
22 the effects of strong ground shaking, liquefaction, landslides, or
23 other ground failure and other seismic hazards caused by
24 earthquakes.

25 (b) It is further the intent of the Legislature that maps and
26 accompanying information provided pursuant to this chapter be
27 made available to local governments for planning and
28 development purposes.

29 (c) It is further the intent of the Legislature that the California
30 Geological Survey, in implementing this chapter, shall, to the
31 extent possible, coordinate its activities with, and use existing
32 information generated from, the earthquake fault zones mapping
33 program pursuant to Chapter 7.5 (commencing with Section
34 2621), and the inundation maps prepared pursuant to Section
35 8589.5 of the Government Code.

36 SEC. 15. Section 2705.5 of the Public Resources Code is
37 amended to read:

38 2705.5. The California Geological Survey shall advise
39 counties and cities as to that portion of the total fees allocated to
40 the Strong-Motion Instrumentation and Seismic Hazards

1 Mapping Fund, so that this information may be provided to
2 building permit applicants.

3 SEC. 16. Section 2714 of the Public Resources Code is
4 amended to read:

5 2714. This chapter does not apply to any of the following
6 activities:

7 (a) Excavations or grading conducted for farming or the
8 immediate excavation or grading of lands affected by a flood or
9 natural disaster for the purpose of restoring those lands to their
10 prior condition.

11 (b) Onsite excavation and onsite earthmoving activities that
12 are an integral and necessary part of a construction project and
13 that are undertaken to prepare a site for construction of structures
14 ~~or landscaping, landscaping, or other land improvements~~
15 associated with those structures, including the related excavation,
16 grading, compaction, or the creation of fills, road cuts, and
17 embankments, whether or not surplus materials are exported
18 from the site, subject to all of the following conditions:

19 (1) All required permits for the construction, landscaping, or
20 related land improvements have been approved by a public
21 agency in accordance with applicable provisions of state law and
22 locally adopted plans and ordinances, including, but not limited
23 to, Division 13 (commencing with Section 21000).

24 (2) The lead agency's approval of the construction project
25 included consideration of the onsite excavation and onsite
26 earthmoving activities pursuant to Division 13 (commencing
27 with Section 21000).

28 (3) The approved construction project is consistent with the
29 general plan or zoning of the site.

30 (4) Surplus materials shall not be exported from the site unless
31 and until actual construction work has commenced and shall
32 cease if it is determined that construction activities have
33 terminated, have been indefinitely suspended, or are no longer
34 being actively pursued.

35 (c) Operation of a plant site used for mineral processing,
36 including associated onsite structures, equipment, machines,
37 tools, or other materials, including the onsite stockpiling and
38 onsite recovery of mined materials, subject to all of the following
39 conditions:

1 (1) The plant site is located on lands designated for industrial
2 or commercial uses in the applicable county or city general plan.

3 (2) The plant site is located on lands zoned industrial or
4 commercial, or are contained within a zoning category intended
5 exclusively for industrial activities by the applicable city or
6 county.

7 (3) None of the minerals being processed are being extracted
8 onsite.

9 (4) All reclamation work has been completed pursuant to the
10 approved reclamation plan for any mineral extraction activities
11 that occurred onsite after January 1, 1976.

12 (d) Prospecting for, or the extraction of, minerals for
13 commercial purposes where the removal of overburden or
14 mineral product totals less than 1,000 cubic yards in any one
15 location, and the total surface area ~~distributed~~ *disturbed* is less
16 than one acre ~~in extent~~.

17 (e) Surface mining operations that are required by federal law
18 in order to protect a mining claim, if those operations are
19 conducted solely for that purpose.

20 (f) Any other surface mining operations that the board, as
21 defined by Section 2001, determines to be of an infrequent nature
22 and which involve only minor surface disturbances.

23 (g) The solar evaporation of sea water or bay water for the
24 production of salt and related minerals.

25 (h) Emergency excavations or grading conducted by the
26 Department of Water Resources or the Reclamation Board for the
27 purpose of averting, alleviating, repairing, or restoring damage to
28 property due to imminent or recent floods, disasters, or other
29 emergencies.

30 (i) (1) Surface mining operations conducted on lands owned
31 or leased, or upon which easements or rights-of-way have been
32 obtained, by the Department of Water Resources for the purpose
33 of the State Water Resources Development System or flood
34 control, and surface mining operations on lands owned or leased,
35 or upon which easements or rights-of-way have been obtained,
36 by the Reclamation Board for the purpose of flood control, if the
37 Department of Water Resources adopts, after submission to and
38 consultation with, the Department of Conservation, a reclamation
39 plan for lands affected by these activities, and those lands are
40 reclaimed in conformance with the standards specified in

1 regulations of the board adopted pursuant to this chapter. The
2 Department of Water Resources shall provide an annual report to
3 the Department of Conservation by the date specified by the
4 Department of Conservation on these mining activities.

5 (2) Nothing in this subdivision shall require the Department of
6 Water Resources or the Reclamation Board to obtain a permit or
7 secure approval of a reclamation plan from any city or county in
8 order to conduct surface mining operations specified in
9 paragraph (1). Nothing in this subdivision shall preclude the
10 bringing of an enforcement action pursuant to Section 2774.1, if
11 it is determined that a surface mine operator, acting under
12 contract with the Department of Water Resources or the
13 Reclamation Board on lands other than those owned or leased, or
14 upon which easements or rights-of-way have been obtained, by
15 the Department of Water Resources or the Reclamation Board, is
16 otherwise not in compliance with this chapter.

17 (j) (1) Excavations or grading for the exclusive purpose of
18 obtaining materials for roadbed construction and maintenance
19 conducted in connection with timber operations or forest
20 management on land owned by the same person or entity. This
21 exemption is limited to excavation and grading that is conducted
22 adjacent to timber operation or forest management roads and
23 shall not apply to onsite excavation or grading that occurs within
24 100 feet of a Class One watercourse or 75 feet of a Class Two
25 watercourse, or to excavation for materials that are, or have been,
26 sold for commercial purposes.

27 (2) This exemption shall be available only if slope stability
28 and erosion are controlled in accordance with subdivision (f) of
29 Section 3704 and subdivision (d) of Section 3706 of Title 14 of
30 the California Code of Regulations and, upon closure of the site,
31 the person closing the site implements, where necessary,
32 revegetation measures and postclosure uses in consultation with
33 the Department of Forestry and Fire Protection.

34 (k) Excavations, grading, or other earthmoving activities in an
35 oil or gas field that are integral to, and necessary for, ongoing
36 operations for the extraction of oil or gas that comply with all of
37 the following conditions:

38 (1) The operations are being conducted in accordance with
39 Division 3 (commencing with Section 3000).

1 (2) The operations are consistent with any general plan or
2 zoning applicable to the site.

3 (3) The earthmoving activities are within oil or gas field
4 properties under a common owner or operator.

5 (4) No excavated materials are sold for commercial purposes.

6 ~~SEC. 17. Section 2715 of the Public Resources Code is~~
7 ~~amended to read:~~

8 ~~2715. No provision of this chapter or any ruling, requirement,~~
9 ~~or policy of the board is a limitation on any of the following:~~

10 ~~(a) On the police power of any city or county or on the power~~
11 ~~of any city or county to declare, prohibit, and abate nuisances.~~

12 ~~(b) On the power of the Attorney General, at the request of the~~
13 ~~board, or upon his or her own motion, to bring an action in the~~
14 ~~name of the people of the State of California to enjoin any~~
15 ~~pollution or nuisance.~~

16 ~~(c) On the power of any state agency in the enforcement or~~
17 ~~administration of any provision of law which it is specifically~~
18 ~~authorized or required to enforce or administer.~~

19 ~~(d) On the right of any person to maintain at any time any~~
20 ~~appropriate action for relief against any private nuisance as~~
21 ~~defined in Part 3 (commencing with Section 3479) of Division 4~~
22 ~~of the Civil Code or for any other private relief.~~

23 ~~(e) On the power of any lead agency to adopt policies,~~
24 ~~standards, or regulations imposing additional requirements on~~
25 ~~any person if the requirements do not prevent the person from~~
26 ~~complying with the provisions of this chapter.~~

27 ~~(f) On the power of any city or county to regulate the use of~~
28 ~~buildings, structures, and land as between industry, business,~~
29 ~~residences, open space (including agriculture, recreation, the~~
30 ~~enjoyment of scenic beauty, and the use of natural resources),~~
31 ~~and other purposes, except as provided in subdivision (e) of~~
32 ~~Section 2763.~~

33 ~~SEC. 18.~~

34 ~~SEC. 17.~~ Section 2716 of the Public Resources Code is
35 amended to read:

36 2716. (a) Any interested person may commence an action on
37 his or her own behalf against the board, *the lead agency*, the
38 State Geologist, or the director for a writ of mandate pursuant to
39 Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of
40 the Code of Civil Procedure to compel the board, the State

1 Geologist, or the director to carry out any duty imposed upon
2 them pursuant to this chapter.

3 (b) For purposes of this section, “person” means an individual,
4 firm, association, corporation, organization, or partnership, or a
5 city, county, district, or the state or any department or agency of
6 the state.

7 ~~SEC. 19.~~

8 *SEC. 18.* Section 2728 of the Public Resources Code is
9 amended to read:

10 2728. “Lead agency” means the city, county, San Francisco
11 Bay Conservation and Development Commission, or the board
12 which has the principal responsibility for approving a
13 reclamation plan pursuant to this chapter.

14 ~~SEC. 20.~~

15 *SEC. 19.* Section 2761 of the Public Resources Code is
16 amended to read:

17 2761. (a) On or before January 1, 1977, and, as a minimum,
18 after the completion of each decennial census, the Office of
19 Planning and Research shall identify portions of the following
20 areas within the state that are urbanized or are subject to urban
21 expansion or other irreversible land uses that would preclude
22 mineral extraction:

23 (1) Standard metropolitan statistical areas and other areas for
24 which information is readily available.

25 (2) Other areas as may be requested by the board.

26 (b) In accordance with a time schedule, and based upon
27 guidelines adopted by the board, the State Geologist shall
28 classify, on the basis solely of geologic factors, and without
29 regard to existing land use and land ownership, the areas
30 identified by the Office of Planning and Research, any area for
31 which classification has been requested by a petition which has
32 been accepted by the board, or any other areas as may be
33 specified by the board, as one of the following:

34 (1) An area that contains mineral deposits and is not of
35 regional or statewide significance.

36 (2) An area that contains mineral deposits and is ~~not~~ of
37 regional or statewide significance.

38 (3) Areas containing mineral deposits, the significance of
39 which requires further evaluation.

1 (c) The State Geologist shall require the petitioner to pay the
2 reasonable costs of classifying an area for which classification
3 has been requested by the petitioner.

4 (d) The State Geologist shall transmit the information to the
5 board for incorporation into the state policy and for transmittal to
6 lead agencies.

7 ~~SEC. 21. Section 2763 of the Public Resources Code is~~
8 ~~amended to read:~~

9 ~~2763. (a) If an area is designated by the board as an area of~~
10 ~~regional significance, and the lead agency either has designated~~
11 ~~that area in its general plan as having important minerals to be~~
12 ~~protected pursuant to subdivision (a) of Section 2762, or~~
13 ~~otherwise has not yet acted pursuant to subdivision (a) of Section~~
14 ~~2762, then prior to permitting a use that would threaten the~~
15 ~~potential to extract minerals in that area, the lead agency shall~~
16 ~~prepare a statement specifying its reasons for permitting the~~
17 ~~proposed use, in accordance with subdivision (d) of Section~~
18 ~~2762. Lead agency land use decisions involving areas designated~~
19 ~~as being of regional significance shall be in accordance with the~~
20 ~~lead agency's mineral resource management policies and shall~~
21 ~~also, in balancing mineral values against alternative land uses,~~
22 ~~consider the importance of these minerals to their market region~~
23 ~~as a whole and not just their importance to the lead agency's area~~
24 ~~of jurisdiction.~~

25 ~~(b) If an area is designated by the board as an area of statewide~~
26 ~~significance, and the lead agency either has designated that area~~
27 ~~in its general plan as having important minerals to be protected~~
28 ~~pursuant to subdivision (a) of Section 2762, or otherwise has not~~
29 ~~yet acted pursuant to subdivision (a) of Section 2762, then prior~~
30 ~~to permitting a use which would threaten the potential to extract~~
31 ~~minerals in that area, the lead agency shall prepare a statement~~
32 ~~specifying its reasons for permitting the proposed use, in~~
33 ~~accordance subdivision (d) of Section 2762. Lead agency land~~
34 ~~use decisions involving areas designated as being of statewide~~
35 ~~significance shall be in accordance with the lead agency's~~
36 ~~mineral resource management policies and shall also, in~~
37 ~~balancing mineral values against alternative land uses, consider~~
38 ~~the importance of the mineral resources to the state and nation as~~
39 ~~a whole.~~

~~(c) If an area is classified by the State Geologist or designated by the board as an area that contains mineral deposits and is an area of regional or statewide significance, a city or county shall not, in either its general plan, or in its resource management plan, allow the specific area to be used for, or permit a use, that is inconsistent with the exploitation or development of that area for mineral excavation and production, until commercial production of that area is completed, except for uses that would not limit or prohibit mineral exploitation or development in that area in the future. If exploitation or development is completed on a part of that area, and that part has been reclaimed pursuant to its approved reclamation plan, the city or county may allow that part to be utilized for a use not involving mineral exploitation or development, if mineral exploitation or development is allowed on the remainder of the designated area.~~

~~SEC. 22. Section 2770 of the Public Resources Code is amended to read:~~

~~2770. (a) Except as provided in this section, no person shall conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation pursuant to this article.~~

~~(b) Any person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency.~~

~~(c) If a person with an existing surface mining operation has received lead agency approval of its financial assurances for reclamation prior to January 1, 1991, the lead agency shall administratively review those existing financial assurances in accordance with subdivision (d) prior to January 1, 1992. The review of existing financial assurances shall not be considered a project for purposes of Division 13 (commencing with Section 21000). Any person with an existing surface mining operation which does not have financial assurances that received lead agency approval prior to January 1, 1991, shall submit financial~~

1 ~~assurances for reclamation for review in accordance with~~
2 ~~subdivision (d):~~

3 ~~(d) The lead agency's review of a reclamation plan or financial~~
4 ~~assurance shall be limited to whether the reclamation plan or~~
5 ~~financial assurance meets the requirements of this chapter, the~~
6 ~~state regulations adopted by the board pursuant to this chapter,~~
7 ~~and the lead agency's surface mining ordinance.~~

8 ~~(e) An affected mining operator may file an appeal with the~~
9 ~~board, other than in cases where the board is a lead agency, if he~~
10 ~~or she alleges that the lead agency has failed to act, or has acted~~
11 ~~in violation of this chapter and the state's policies adopted by the~~
12 ~~board in approving or failing to approve a reclamation plan or~~
13 ~~financial assurance. Any appeal shall be made within 30 days of~~
14 ~~an approval or disapproval of a reclamation plan or financial~~
15 ~~assurance by the lead agency, or if the allegation is that the local~~
16 ~~lead agency has failed to act on a request for approval of a~~
17 ~~reclamation plan or financial assurance, within 180 days from the~~
18 ~~date a complete application for the approval was filed with the~~
19 ~~local lead agency.~~

20 ~~(f) The board may decline to hear an appeal if it determines~~
21 ~~that the appeal raises no substantial issues related to the lead~~
22 ~~agency's review pursuant to this section.~~

23 ~~(g) (1) Appeals that the board accepts for a hearing shall be~~
24 ~~scheduled for a public hearing within 180 days of the filing of the~~
25 ~~appeal.~~

26 ~~(2) If the board is required to prepare, or causes to be~~
27 ~~prepared, a certified environmental impact report in connection~~
28 ~~with the appeal, the public hearing shall be held within one year~~
29 ~~of the date of the filing of the appeal. For the purposes of this~~
30 ~~paragraph, the board shall rely on the environmental~~
31 ~~documentation prepared on behalf of the lead agency if it finds~~
32 ~~that the documentation is adequate.~~

33 ~~(3) In the event of the filing of an appeal, the lead agency shall~~
34 ~~prepare, certify, and provide to the board and the appellant, a~~
35 ~~record of the proceedings, if any, before the local lead agency,~~
36 ~~relating to the issues for which the appeal is sought. All~~
37 ~~documents prepared by the local lead agency pursuant to~~
38 ~~Division 13 (commencing with Section 21000) shall be part of~~
39 ~~the record on appeal. The reasonable costs of preparing the~~
40 ~~record on appeal shall be borne by the appellant.~~

~~(4) Upon completion of a hearing, the board shall affirm the lead agency's decision if the decision is supported by substantial evidence in light of the whole record. If the board determines that the lead agency's decision is not supported by substantial evidence in light of the whole record, the board shall approve, with or without modifications, the reclamation plan or financial assurances subject to those conditions it deems appropriate, taking into account any conditions proposed by the lead agency.~~

~~(5) The board shall provide notice of a public hearing required by this subdivision consistent with the notice provisions set forth in Section 65091 of the Government Code, including providing notice to the lead agency.~~

~~(h) (1) Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of Division 13 (commencing with Section 21000). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan, for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.~~

~~(2) The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:~~

~~(A) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.~~

~~(B) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.~~

~~(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.~~

1 ~~(4) Within 60 days of the receipt of the interim management~~
2 ~~plan, or a longer period mutually agreed upon by the lead agency~~
3 ~~and the operator, the lead agency shall review and approve the~~
4 ~~plan in accordance with its ordinance adopted pursuant to~~
5 ~~subdivision (a) of Section 2774, so long as the plan satisfies the~~
6 ~~requirements of this subdivision, and so notify the operator in~~
7 ~~writing. Otherwise, the lead agency shall notify the operator in~~
8 ~~writing of any deficiencies in the plan. The operator shall have~~
9 ~~30 days, or a longer period mutually agreed upon by the operator~~
10 ~~and the lead agency, to submit a revised plan.~~

11 ~~(5) The lead agency shall approve or deny approval of the~~
12 ~~revised interim management plan within 60 days of receipt. If the~~
13 ~~lead agency denies approval of the revised interim management~~
14 ~~plan, the operator may appeal that action to the lead agency's~~
15 ~~governing body, which shall schedule a public hearing within 45~~
16 ~~days of the filing of the appeal, or any longer period mutually~~
17 ~~agreed upon by the operator and the governing body.~~

18 ~~(6) Unless review of an interim management plan is pending~~
19 ~~before the lead agency, or an appeal is pending before the lead~~
20 ~~agency's governing body, a surface mining operation which~~
21 ~~remains idle for over one year after becoming idle as defined in~~
22 ~~Section 2727.1 without obtaining approval of an interim~~
23 ~~management plan shall be considered abandoned and the~~
24 ~~operator shall commence and complete reclamation in~~
25 ~~accordance with the approved reclamation plan.~~

26 ~~(i) Any enforcement action which may be brought against a~~
27 ~~surface mining operation for operating without an approved~~
28 ~~reclamation plan, financial assurance, or interim management~~
29 ~~plan, shall be held in abeyance pending review pursuant to~~
30 ~~subdivision (b), (c), (d), or (h) or the resolution of an appeal filed~~
31 ~~with the board pursuant to subdivision (c), or with a lead agency~~
32 ~~governing body pursuant to subdivision (h).~~

33 ~~SEC. 23.~~

34 ~~SEC. 20.~~ Section 2772.7 is added to the Public Resources
35 Code, to read:

36 2772.7. A lead agency, upon approval of a reclamation plan
37 or an amendment to a reclamation plan, shall record a "Notice of
38 Reclamation Plan Approval" with the county recorder. The
39 notice shall read: "Mining operations conducted on the
40 hereinafter described real property are subject to a reclamation

1 plan approved by the _____, a copy of which is on file with the
2 _____.”

3 ~~SEC. 24. Section 2773.1 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~2773.1. (a) Lead agencies shall require financial assurances~~
6 ~~of each surface mining operation to ensure that reclamation is~~
7 ~~performed in accordance with the surface mining operation's~~
8 ~~approved reclamation plan, as follows:~~

9 ~~(1) Financial assurances may take the form of surety bonds~~
10 ~~executed by an admitted surety insurer, as defined in subdivision~~
11 ~~(a) of Section 995.120 of the Code of Civil Procedure,~~
12 ~~irrevocable letters of credit, trust funds, or other forms of~~
13 ~~financial assurances specified by the board pursuant to~~
14 ~~subdivision (c) that the lead agency reasonably determines are~~
15 ~~adequate to perform reclamation in accordance with the surface~~
16 ~~mining operation's approved reclamation plan.~~

17 ~~(2) The financial assurances shall remain in effect for the~~
18 ~~duration of the surface mining operation and any additional~~
19 ~~period until reclamation is completed.~~

20 ~~(3) The amount of financial assurances required of a surface~~
21 ~~mining operation for any one year shall be adjusted annually to~~
22 ~~account for new lands disturbed by surface mining operations,~~
23 ~~inflation, and reclamation of lands accomplished in accordance~~
24 ~~with the approved reclamation plan.~~

25 ~~(4) The financial assurances shall be made payable to the lead~~
26 ~~agency and the department. Financial assurances that were~~
27 ~~approved by the lead agency prior to January 1, 1993, and were~~
28 ~~made payable to the State Geologist shall be considered payable~~
29 ~~to the department for purposes of this chapter. However, if a~~
30 ~~surface mining operation has received approval of its financial~~
31 ~~assurances from a public agency other than the lead agency, the~~
32 ~~lead agency shall deem those financial assurances adequate for~~
33 ~~purposes of this section, or shall credit them toward fulfillment of~~
34 ~~the financial assurances required by this section, if they are made~~
35 ~~payable to the public agency, the lead agency, and the~~
36 ~~department and otherwise meet the requirements of this section.~~
37 ~~In any event, if a lead agency and one or more public agencies~~
38 ~~exercise jurisdiction over a surface mining operation, the total~~
39 ~~amount of financial assurances required by the lead agency and~~
40 ~~the public agencies for any one year shall not exceed that amount~~

1 which is necessary to perform reclamation of lands remaining
2 disturbed. For purposes of this paragraph, a “public agency” may
3 include a federal agency.

4 (b) (1) If the lead agency or the board determines that the
5 operator is financially incapable of performing reclamation in
6 accordance with its approved reclamation plan, or has abandoned
7 its surface mining operation without completing reclamation,
8 either the lead agency or the director may take appropriate action
9 to require the forfeiture of the financial assurances relating to the
10 reclamation of the mining operation.

11 (2) The forfeiture provided for in paragraph (1) shall not occur
12 until the mining operator has first been given a 10-day written
13 notice, by personal service or certified mail, of the intended
14 forfeiture, and an opportunity to discuss his or her financial
15 situation and the proposed forfeiture with the lead agency or
16 director, as appropriate. However, the 10-day notice period shall
17 not be required as a condition to forfeiting these financial
18 assurances, if any financial assurances would otherwise expire or
19 cease to be effective during the 10-day period or within five days
20 after the 10-day period.

21 (3) Use the proceeds from the forfeited financial assurances to
22 conduct and complete reclamation in accordance with the
23 approved reclamation plan. In no event shall the financial
24 assurances be used for any other purpose. The operator is
25 responsible for the costs of conducting and completing
26 reclamation in accordance with the approved reclamation plan
27 which are in excess of the proceeds from the forfeited financial
28 assurances.

29 (e) Financial assurances shall no longer be required of a
30 surface mining operation, and shall be released, upon written
31 notification by the lead agency, which shall be forwarded to the
32 operator and the director, that reclamation has been completed in
33 accordance with the approved reclamation plan. If a mining
34 operation is sold or ownership is transferred to another person,
35 the existing financial assurances shall remain in force and shall
36 not be released until the new owner of the mining operation
37 assumes in writing the obligations to complete reclamation in
38 accordance with the terms of any existing reclamation plan
39 approved for the operation, and posts sufficient new financial
40 assurances, pursuant to this chapter, as may be required by the

1 ~~lead agency. No transferee of any mining operation shall be~~
2 ~~recognized as a mining operator for the mining operation in~~
3 ~~question, until the occurrence of both these conditions.~~

4 ~~(d) (1) The lead agency shall have primary responsibility to~~
5 ~~seek forfeiture of financial assurances and to reclaim mined lands~~
6 ~~pursuant to this chapter. However, except in cases where the~~
7 ~~board is the lead agency in which case no notice need be given,~~
8 ~~the director may not act to seek forfeiture of financial assurances~~
9 ~~and reclaim mine sites pursuant to this chapter until the director~~
10 ~~has first given notice to the lead agency that the director has~~
11 ~~determined to seek forfeiture of the financial assurances, and~~
12 ~~unless the lead agency has done so within 10 days from the date~~
13 ~~of that notice. The director shall specify in that notice that he or~~
14 ~~she has determined that the mining operator is financially~~
15 ~~incapable of completing reclamation or has abandoned the~~
16 ~~mining operation.~~

17 ~~(2) The director shall not be required to give the lead agency~~
18 ~~that notice if the director determines that there is a violation of~~
19 ~~this chapter by the mining operator that amounts to an imminent~~
20 ~~and substantial danger to the public health, safety, or the~~
21 ~~environment, or, if the lead agency has notified the director that~~
22 ~~it is unable to successfully seek the forfeiture of these financial~~
23 ~~assurances.~~

24 ~~(e) The board may adopt regulations specifying financial~~
25 ~~assurance mechanisms other than surety bonds, irrevocable~~
26 ~~letters of credit, and trust funds, which the board determines are~~
27 ~~reasonably available and adequate to ensure reclamation pursuant~~
28 ~~to this chapter, but these mechanisms may not include financial~~
29 ~~tests, or surety bonds executed by one or more personal sureties.~~
30 ~~These mechanisms may include reclamation bond pool programs.~~

31 ~~(f) On or before March 1, 1993, the board shall adopt~~
32 ~~guidelines to implement this section. The guidelines are exempt~~
33 ~~from the requirements of Chapter 3.5 (commencing with Section~~
34 ~~11340) of Part 1 of Division 3 of Title 2 of the Government~~
35 ~~Code, and are not subject to review by the Office of~~
36 ~~Administrative Law.~~

37 ~~SEC. 25.~~

38 *SEC. 21.* Section 2773.2 of the Public Resources Code is
39 repealed.

1 ~~SEC. 26.~~

2 *SEC. 22.* Section 2773.2 is added to the Public Resources
3 Code, to read:

4 2773.2. The mineral owner and owner of the surface estate, if
5 legally entitled to do so, shall allow access to the property on
6 which the mining operation is located to any governmental
7 agency or the agent of any company providing financial
8 assurances in connection with the reclamation plan and
9 expending those financial assurances for reclamation, in order
10 that reclamation may be carried out by the ~~entity~~ *governmental*
11 *agency* or company, in accordance with the reclamation plan.

12 ~~SEC. 27.~~

13 *SEC. 23.* Section 2774 of the Public Resources Code is
14 amended to read:

15 2774. (a) Every lead agency shall adopt ordinances in
16 accordance with state policy that establish procedures for the
17 review and approval of reclamation plans and financial
18 assurances and the issuance of a permit to conduct surface
19 mining operations, except that any lead agency without an active
20 surface mining operation in its jurisdiction may defer adopting an
21 implementing ordinance until the filing of a permit application.
22 The ordinances shall establish procedures requiring at least one
23 public hearing and shall be periodically reviewed by the lead
24 agency and revised, as necessary, to ensure that the ordinances
25 continue to be in accordance with state policy.

26 (b) The lead agency shall conduct an inspection of a surface
27 mining operation within six months of receipt by the lead agency
28 of the surface mining operation's report submitted pursuant to
29 Section 2207, solely to determine whether the surface mining
30 operation is in compliance with this chapter. In no event shall a
31 lead agency inspect a surface mining operation less than once in
32 any calendar year. The lead agency may cause an inspection to
33 be conducted by a ~~state-registered~~ *state-licensed* geologist,
34 ~~state-registered~~ *state-licensed* civil engineer, state-licensed
35 landscape architect, or ~~state-registered~~ *state-licensed* forester,
36 who is experienced in land reclamation and who has not been
37 employed by a surface mining operation within the jurisdiction of
38 the lead agency in any capacity during the previous 12 months.
39 All inspections shall be conducted using a form developed by the
40 department and approved by the board *that shall include the*

1 *professional licensing and disciplinary information of the person*
2 *who conducted the inspection.* The operator shall be solely
3 responsible for the reasonable cost of the inspection. The lead
4 agency shall notify the director within 30 days of the date of
5 completion of the inspection that the inspection has been
6 conducted. The notice shall contain a statement regarding the
7 surface mining operation's compliance with this chapter, shall
8 include a copy of the completed inspection form, and shall
9 specify which aspects of the surface mining operations, if any,
10 are inconsistent with this chapter. If the surface mining operation
11 has a review of its reclamation plan, financial assurances, or an
12 interim management plan pending under subdivision (b), (c), (d),
13 or (h) of Section 2770, or an appeal pending before the board or
14 lead agency governing body under subdivision (e) or (h) of
15 Section 2770, the notice shall so indicate. The lead agency shall
16 forward to the operator a copy of the notice, a copy of the
17 completed inspection form, and any supporting documentation,
18 including, but not limited to, any inspection report prepared by
19 the geologist, civil engineer, landscape architect, or forester, *who*
20 *conducted the inspection.*

21 (c) Prior to approving a surface mining operation's
22 reclamation plan, financial assurances, including existing
23 financial assurances reviewed by the lead agency pursuant to
24 subdivision (c) of Section 2770, or any amendments, the lead
25 agency shall submit the plan, assurances, or amendments to the
26 director for review. All documentation for that submission shall
27 be submitted to the director at one time. When the lead agency
28 submits a reclamation plan or plan amendments to the director
29 for review, the lead agency shall also submit to the director, for
30 use in reviewing the reclamation plan or plan amendments,
31 information from any related document prepared, adopted, or
32 certified pursuant to Division 13 (commencing with Section
33 21000), and shall submit any other pertinent information. The
34 lead agency shall certify to the director that the reclamation plan
35 is in compliance with the applicable requirements of *this chapter*
36 *and* Article 9 (commencing with Section 3500) of Chapter 8 of
37 Division 2 of Title 14 of the California Code of Regulations *and*
38 *the lead agency's mining ordinance* in effect at the time that the
39 reclamation plan is submitted to the director for review.

(d) (1) The director shall have 30 days from the date of receipt of a reclamation plan or plan amendments submitted pursuant to subdivision (c), and 45 days from the date of receipt of financial assurances submitted pursuant to subdivision (c), to prepare written comments, if the director so chooses. The lead agency shall evaluate any written comments received from the director relating to the reclamation plan, plan amendments, or financial assurances within a reasonable amount of time.

~~(2) The lead agency shall prepare a written response to the director's comments submitted to it, responding to each of the issues raised by the director's comments, and submit the response to the director at least 30 days prior to approval of the reclamation plan, plan amendment, or financial assurance. The lead agency's comments shall describe whether the recommendations of the director will be accepted by the lead agency, and if not, shall specify the reasons the lead agency declines to adopt them. The lead agency shall also give the director at least 30 days' notice of the time, place, and date of a hearing before the lead agency at which time the reclamation plan, plan amendment, or financial assurance is scheduled to be approved by the lead agency. If no hearing is required by this chapter or by a local ordinance or other state law, then the lead agency shall provide 30 days' notice to the director that it intends to approve the reclamation plan, plan amendment, or financial assurance.~~

(2) The lead agency shall prepare a written response to the director's comments describing the disposition of the major issues raised by the director's comments, and submit the lead agency's proposed response to the director at least 30 days prior to approval of the reclamation plan, plan amendment, or financial assurance. The lead agency's response to the director's comments shall describe whether the lead agency proposes to adopt the director's comments to the reclamation plan, plan amendment, or financial assurance. If the lead agency does not propose to adopt the director's comments, the lead agency shall specify, in detail, why the lead agency proposes not to adopt the comments. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator. The lead agency shall also give the director at least 30 days' notice of the time, place, and date of the hearing before the

1 lead agency at which time the reclamation plan, plan
2 amendment, or financial assurance is scheduled to be approved
3 by the lead agency. If no hearing is required by this chapter, or
4 by the local ordinance, of other state law, then the lead agency
5 shall provide 30 days' notice to the director that it intends to
6 approve the reclamation plan, plan amendment, or financial
7 assurance. The lead agency shall send to the director its final
8 response to the director's comments within 30 days following its
9 approval of the reclamation plan, plan amendment, or financial
10 assurance during which period the department retains all
11 powers, duties, and authorities of this chapter.

12 (3) To the extent that there is a conflict between the comments
13 of a trustee agency or a responsible agency that are based on the
14 agency's statutory or regulatory authority and the comments of
15 other commenting agencies which are received by the lead
16 agency pursuant to Division 13 (commencing with Section
17 21000) regarding a reclamation plan or plan amendments, the
18 lead agency shall consider only the comments of the trustee
19 agency or responsible agency.

20 (e) Lead agencies shall notify the director of the filing of an
21 application for a permit to conduct surface mining operations
22 within 30 days of an application being filed with the lead agency.
23 By July 1, 1991, each lead agency shall submit to the director for
24 every active or idle mining operation within its jurisdiction, a
25 copy of the mining permit required pursuant to Section 2774, and
26 any conditions or amendments to those permits. By July 1 of
27 each subsequent year, the lead agency shall submit to the director
28 for each active or idle mining operation a copy of any permit or
29 reclamation plan amendments, as applicable, or a statement that
30 there have been no changes during the previous year. Failure to
31 file with the director the information required under this section
32 shall be cause for action under Section 2774.4.

33 ~~SEC. 28. Section 2775 of the Public Resources Code is~~
34 ~~amended to read:~~

35 ~~2775. (a) An applicant whose request for a permit to conduct~~
36 ~~surface mining operations in an area of statewide or regional~~
37 ~~significance has been denied by a lead agency may, within 15~~
38 ~~days of exhausting his or her rights to appeal in accordance with~~
39 ~~the procedures of the lead agency, appeal to the board.~~

1 ~~(b) The board may, by regulation, establish procedures for~~
2 ~~declining to hear appeals that it determines raise no substantial~~
3 ~~issues.~~

4 ~~(c) (1) Appeals that the board does not decline to hear shall be~~
5 ~~scheduled and heard at a public hearing held within the~~
6 ~~jurisdiction of the lead agency that processed the original~~
7 ~~application within 180 days of the filing of the appeal.~~

8 ~~(2) If the board is required to prepare, or causes to be~~
9 ~~prepared, a certified environmental impact report in connection~~
10 ~~with the appeal, the public hearing shall be held within one year~~
11 ~~of the date of the filing of the appeal or any longer period that~~
12 ~~may be mutually agreed upon by the board and the appellant.~~

13 ~~(3) If the board does not decline to hear the appeal, the lead~~
14 ~~agency shall prepare, certify, and provide to the board and the~~
15 ~~appellant, a record of the proceedings, if any, before the local~~
16 ~~lead agency, relating to the issues for which an appeal is sought.~~
17 ~~All documents prepared by the local lead agency pursuant to~~
18 ~~Division 13 (commencing with Section 21000) shall be part of~~
19 ~~the record on appeal. The reasonable costs of preparing the~~
20 ~~record on appeal shall be borne by the appellant. Upon~~
21 ~~completion of a hearing, the board shall affirm the lead agency's~~
22 ~~decision if, upon exercise of the board's independent judgment in~~
23 ~~reviewing the record, the board determines that the lead agency's~~
24 ~~decision is consistent with the provisions of this chapter,~~
25 ~~Division 13 (commencing with Section 21000), the state's~~
26 ~~policies adopted by the board for conducting surface mining~~
27 ~~operations in areas of statewide or regional significance, and the~~
28 ~~lead agency's surface mining or land use ordinances.~~

29 ~~(4) If the board determines that the lead agency's decision is~~
30 ~~not consistent with this chapter, Division 13 (commencing with~~
31 ~~Section 21000), the state's policies adopted by the board for~~
32 ~~conducting surface mining operations in areas of statewide or~~
33 ~~regional significance, or the lead agency's surface mining or land~~
34 ~~use ordinances, the board may grant a permit to conduct surface~~
35 ~~mining operations taking into account both of the following:~~

36 ~~(A) That the areas in question have been determined to be of~~
37 ~~statewide or regional significance.~~

38 ~~(B) Any conditions that were proposed by the lead agency.~~

39 ~~(5) In a determination to grant a permit to conduct surface~~
40 ~~mining operations, notwithstanding Section 2757, the board may~~

~~impose those conditions on the mining operation it deems appropriate under the circumstances.~~

~~(6) The board shall provide notice of a public hearing required by this subdivision consistent with the notice provisions set forth in Section 65091 of the Government Code, including providing notice to the lead agency.~~

~~SEC. 29.~~

SEC. 24. Section 2796.5 of the Public Resources Code is amended to read:

2796.5. (a) The director, with the consultation of appropriate state and local agencies, may remediate or complete reclamation of abandoned mined lands that meet all of the following requirements:

(1) No operator having both the responsibility and the financial ability to remediate or reclaim the mined lands can be found within the state.

(2) No reclamation plan is in effect for the mined lands.

(3) No financial assurances exist for the mined lands.

(4) The mined lands are abandoned, as that term is used in paragraph (6) of subdivision (h) of Section 2770.

(b) In deciding whether to act pursuant to subdivision (a), the director shall consider whether the action would accomplish one of the following:

(1) The protection of the public health and safety or the environment from the adverse effects of past surface mining operations.

(2) The protection of property that is in danger as a result of past surface mining operations.

(3) The restoration of land and water resources previously degraded by the adverse effects of surface mining operations.

(c) The director may also consider the potential liability to the state in deciding whether to act under this section. Neither the director, the department, nor the state, or its appointees, employees, or agents, in conducting remediation or reclamation under this section, shall be liable under applicable state law, and it is the intent of the Legislature that those persons and entities not be liable for those actions under federal laws.

(d) (1) The remediation or reclamation work performed under this section includes, but is not limited to, supervision of remediation or reclamation activities that, in the director's

1 judgment, is required by the magnitude of the endeavor or the
2 urgency for prompt action needed to protect the public health and
3 safety or the environment. The action may be taken in default of,
4 or in addition to, remedial work by any other person or
5 governmental agency, and regardless of whether injunctive relief
6 is being sought.

7 (2) The director may authorize the work to be performed
8 through department staff, with the cooperation of any other
9 governmental agency, or through contracts, and may use rented
10 tools or equipment, either with or without operators furnished.

11 (3) In cases of emergency where quick action is necessary,
12 notwithstanding any other provision of law, the director may
13 enter into oral contracts for the work, and the contracts, whether
14 written or oral, may include provisions for the rental of tools or
15 equipment and in addition the furnishing of labor and materials
16 necessary to accomplish the work. These emergency contracts
17 are exempt from approval by the Department of General Services
18 pursuant to Section 10295 of the Public Contract Code.

19 (4) The director shall be permitted reasonable access to the
20 abandoned mined lands as necessary to perform any remediation
21 or reclamation work. The access shall be obtained with the
22 consent of the owner or possessor of the property or, if the
23 consent is withheld or otherwise unobtainable, with a warrant
24 duly issued pursuant to the procedure described in Title 13
25 (commencing with Section 1822.50) of Part 3 of the Code of
26 Civil Procedure. However, in the event of an emergency
27 affecting the public health or safety, the director may enter the
28 property without consent or the issuance of a warrant.

29 (e) For any remediation or reclamation work accomplished, or
30 other necessary remedial action taken by any governmental
31 agency, the operator, landowner, and the person or persons who
32 allowed or caused any pollution or nuisance are liable to that
33 governmental agency to the extent of the reasonable costs
34 actually incurred in remediating, reclaiming, or taking other
35 remedial action. The amount of the costs is recoverable in a civil
36 action by, and paid to, the governmental agency and the director
37 to the extent of the director's contribution to the costs of the
38 remediation, reclamation, cleanup, and abatement or other
39 corrective action.

1 (f) (1) The amount of the costs constitutes a lien on the
2 affected property upon service of a copy of the notice of lien on
3 the owner and upon the recordation of a notice of lien, which
4 identifies the property on which the remediation or reclamation
5 was accomplished, the amount of the lien, and the owner of
6 record of the property, in the office of the county recorder of the
7 county in which the property is located. Upon recordation, the
8 lien has the same force, effect, and priority as a judgment lien,
9 except that it attaches only to the property posted and described
10 in the lien. The lien shall continue for 10 years from the time of
11 the recording of the notice of the lien unless sooner released or
12 otherwise discharged, and may be renewed.

13 (2) Not later than 45 days after receiving a notice of lien, the
14 owner may petition the court for an order releasing the property
15 from the lien or reducing the amount of the lien. In this court
16 action, the governmental agency that incurred the costs shall
17 establish that the costs were reasonable and necessary. The lien
18 may be foreclosed by an action brought by the director, for a
19 money judgment. Money recovered by a judgment in favor of the
20 director shall be used for the purposes of this chapter.

21 (g) If the operation has been idle for more than one year
22 without obtaining an approved interim management plan, an
23 application for the review of an interim management plan filed
24 for the purpose of preventing the director from undertaking
25 remediation or reclamation of abandoned mined lands under this
26 section shall be voidable by the lead agency or the board upon
27 notice and hearing by the lead agency or the board. In the event
28 of conflicting determinations, the decision of the board shall
29 prevail.

30 (h) “Remediate,” for the purposes of this section, means to
31 improve conditions so that threat to or damage to public health
32 and safety or the environment are lessened or ameliorated,
33 including the cleanup and abatement of pollution or nuisance or
34 threatened pollution or nuisance.

35 (i) “Threaten,” for the purposes of this section, means a
36 condition creating a probability of harm, when the probability
37 and potential extent of harm make it reasonably necessary to take
38 action to prevent, reduce, or mitigate damages to persons,
39 property, or the environment.

1 (j) This section shall apply to abandoned mined lands on
2 which the mining operations were conducted after January 1,
3 1976.

4 (k) The director may act under this section only upon the
5 appropriation of funds by the Legislature for the purposes of
6 carrying out this section.

7 (l) Nothing in this section limits the authority of any state
8 agency under any other law or regulation to enforce or administer
9 any cleanup or abatement activity.

10 ~~SEC. 30.~~

11 *SEC. 25.* Section 30404 of the Public Resources Code is
12 amended to read:

13 30404. (a) The commission shall periodically, in the case of
14 the State Energy Resources Conservation and Development
15 Commission, the State Board of Forestry and Fire Protection, the
16 State Water Resources Control Board and the California regional
17 water quality control boards, the State Air Resources Board and
18 air pollution control districts and air quality management
19 districts, the Department of Fish and Game, the Department of
20 Parks and Recreation, the Department of Boating and
21 Waterways, the California Geological Survey and the Division of
22 Oil, Gas, and Geothermal Resources in the Department of
23 Conservation, and the State Lands Commission, and may, with
24 respect to any other state agency, submit recommendations
25 designed to encourage the state agency to carry out its functions
26 in a manner consistent with this division. The recommendations
27 may include proposed changes in administrative regulations,
28 rules, and statutes.

29 (b) Each of those state agencies shall review and consider the
30 commission recommendations and shall, within six months from
31 the date of their receipt, to the extent that the recommendations
32 have not been implemented, report to the Governor and the
33 Legislature its action and reasons therefor. The report shall also
34 include the state agency's comments on any legislation that may
35 have been proposed by the commission.

36 ~~SEC. 31.~~

37 *SEC. 26.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the
2 penalty for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition of a
4 crime within the meaning of Section 6 of Article XIII B of the
5 California Constitution.

O